

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Curtis Rena Hill, #296024,)
a/k/a Curtis R. Hill,)
Plaintiff,) Civil Action No. 6:08-4080-HMH-WMC
vs.)
Adell Dobey, Polly Hall,)
and Marcus Smith,)
Defendants.)

)

REPORT OF MAGISTRATE JUDGE

This matter is before the court on the plaintiff's motions for judgment on the pleadings (doc. 17) and for entry of default (docs. 21 and 31). The plaintiff, a state prisoner who is proceeding *pro se*, brought this action seeking relief pursuant to Title 42, United States Code, Section 1983.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

In his complaint, the plaintiff alleges deliberate indifference to a serious medical need after he slipped and fell on a wet floor at Edgefield County Detention Center on September 29, 2008, causing injuries including a sprained ankle.

On February 5, 2009, the plaintiff filed a motion for judgment on the pleadings, basically arguing that his complaint is correct and the defendants' answer is incorrect. Clearly this motion is without merit and should be denied. On February 26, 2009, the plaintiff filed a motion for entry of default, arguing that he is entitled to entry of default

because the defendants did not timely respond to his motion for judgment on the pleadings. As argued by the defendants, their failure to respond to the motion for judgment on the pleadings, which they felt was so lacking in merit that a response was unnecessary, does not entitle the plaintiff to entry of default. The defendants timely filed an answer to the plaintiff's complaint (see doc. 15). On March 18, 2009, the plaintiff filed a second motion for entry of default, claiming that the defendants had been granted an extension of time through March 16, 2009, to respond to his motions, but had failed to do so. To the contrary, the defendants filed their opposition to the plaintiff's motion on March 16th (see doc. 28).

Based upon the foregoing, the plaintiff's motions for judgment on the pleadings (doc. 17) and entry of default (docs. 21 and 31) should be denied.

s/William M. Catoe
United States Magistrate Judge

March 24, 2009

Greenville, South Carolina